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August 28, 2018

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VIA ECF

Hon. Frederick J. Scullin
United States District Judge
Federal Building and U.S. Courthouse
100 South Clinton Street
P. O. Box 7255
Syracuse, NY 13261-7345

Re: *Doe v. Syracuse University, et al*
Civil Action No.: 5:18-CV-00496 [FJS-DEP]

Dear Judge Scullin:

Plaintiffs object to defendants' letter request (Dkt. # 55), that this Court sign their requested TRO prior to completion of the briefing schedule agreed to by the parties and ordered by Magistrate Judge Peebles on the issue of a preliminary injunction. (Dkt. # 48). It goes without saying that the injunctive relief sought by defendants – federal court interference with a related action where the state court indisputably has jurisdiction to adjudicate the controversy pursuant to a special state-created procedural mechanism offering a specific New York State specific remedy - is both extraordinary and impermissible. Indeed, this request implicates serious questions of federalism, comity and abstention as noted in plaintiffs' initial response and opposition to defendants' motion. (Dkt. # 51). Moreover, the actions defendants have taken to thwart plaintiffs' ability to discontinue the case and refile it in state court to consolidate the plenary diversity action with the Article 78 claims (as directed by Judge McClusky in Jefferson County) is sanctionable. Nor did counsel for plaintiffs ever make the assertion to defense counsel as he contends that we planned to or would file the Article 78 claims here. Even if this Court elected to accept supplemental jurisdiction over Article 78 claims that do not involve analysis of federal law, plaintiffs were still not *obligated* to file the Article 78 claims in federal court when the state courts provide a more swift, efficient and peculiarly designed procedural remedy. Finally, while *all of the relief* that plaintiffs in this case and petitioners in the Article 78 proceeding seek may be obtained in state court, this Court lacks subject matter jurisdiction over the claims of three non-diverse Article 78 petitioners.

Consequently, plaintiffs request that the Court decline to sign the proffered TRO and abide by

Smith Sovik Kendrick & Sugnet P.C.

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the briefing schedule ordered by Judge Peebles.

Respectfully,

A handwritten signature in black ink, appearing to read "Karen G. Felter", written in a cursive style.

Karen G. Felter

cc: All Counsel of Record via ECF